

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MICHAEL T. DREHER, on behalf of)	
himself and others similarly situated,)	
)	
Plaintiff,)	
)	Civil Action No. 3:13-CV-140-JAG
v.)	
)	
ATLANTIC REMODELING CORP.,)	
)	
Defendant.)	
)	

**OBJECTION TO RULE 45 SUBPOENA AND MOTION TO QUASH BY BERTRAM
LEBHAR, CHIEF EXECUTIVE OF DEFENDANT ATLANTIC REMODELING CORP.
AND BY DEFENDANT ATLANTIC REMODELING CORP.**

Bertram Lebhar, Chief Executive of Defendant Atlantic Remodeling Corp. ("Mr. Lebhar") and Defendant Atlantic Remodeling Corp. ("ARC"), by counsel, respectfully object to the Rule 45 subpoena to produce documents and other information ("the Subpoena"), issued by the Plaintiff in this matter, and in support hereof, represents as follows:

1. The Subpoena was issued by Plaintiff's counsel on July 9, 2013 and served in Maryland at Mr. Lebhar's home on Wednesday, July 10. It requests over 2 years of financial documents to be produced on July 24. A copy of the Subpoena is attached hereto as Exhibit A.
2. By its terms, the Subpoena commands Mr. Lebhar to produce financial documents generated by the corporate Defendant and certain of Mr. Lebhar's personal financial records, also generated by the corporate Defendant.

3. The issuance of a “non-party” subpoena for corporate documents on the Defendant corporation’s Chief Executive, is inappropriate and constitutes an effort to end-run the response time provided in Rule 34 for production of documents by a party.

4. Notwithstanding the impropriety of seeking a party’s documents from a party’s executive, none of the categories of over two years of documents requested have any relevance to any issue in this case, but are intended to burden, harass and embarrass Mr. Lebhar and ARC. This offense is particularly aggravated by Plaintiff’s counsel’s knowledge that ARC was in the process of having to retain new counsel and despite a pending motion for a stay of proceedings made necessary by this development, a stay granted by this Court on the day the Subpoena was served.

5. Defendant counsel’s telephone call to Plaintiff’s counsel to discuss these matters has not been returned as of this writing.

WHEREFORE, for the foregoing reasons, and pursuant to authority set forth in Rule 45(c), Mr. Lebhar and Atlantic Remodeling Corp. respectfully pray that the Subpoena be quashed, and for such other relief as is meet and just.

BERTRAM LEBHAR
ATLANTIC REMODELING CORP.

By: /s/
Grady C. Frank, Jr., Esq. (VA Bar #14742)
gfrank@kv-legal.com
Thomas C. Junker, Esq. (VA Bar #29928)
tjunker@kv-legal.com
KAPLAN, VOEKLER, CUNNINGHAM
& FRANK, PLC
439 N. Lee Street
Alexandria, Virginia 22314
(571) 527-1301
(571) 527-1319 (fax)

Paul D. Anders, Esq. (VA Bar #31712)
panders@kv-legal.com
KAPLAN, VOEKLER, CUNNINGHAM
& FRANK, PLC
7 East 2nd Street
Richmond, VA 23224
Counsel for Defendant Atlantic Remodeling Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of July, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Kristi C. Kelly, Esq.
SUROVELL ISAACS PETERSEN & LEVY PLC
4010 University Drive, Second Floor
Fairfax, VA 22030
kkelly@siplfirm.com

Leonard A. Bennett, Esq.
Susan M. Rotkis, Esq.
CONSUMER LITIGATION ASSOCIATES, P.C.
763 J. Clyde Morris Blvd., Suite 1-A
Newport News, VA 23601
lenbennett@clalegal.com
srotkis@clalegal.com

_____/s/
Grady C. Frank, Jr.